

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**MICHAEL RIVLIN,**

Plaintiff,

v.

**ZIMMER BIOMET, et al.,**

Defendants.

**CIVIL ACTION**

**NO. 19-1497-KSM**

**ORDER**

**AND NOW**, this 30th day of September 2021, it is **ORDERED** as follows:

1. Upon consideration of Plaintiff's Motion *in Limine* to Preclude Defendants from Offering Inadmissible Hearsay (Doc. No. 36) and Defendants' response brief (Doc. No. 50), it is **ORDERED** that the motion is **DENIED AS MOOT**.

2. Upon consideration of Plaintiff's Motion *in Limine* to Preclude Defendants' Expert, Elizabeth Austin, Ph.D., as Not Helpful to the Jury, Irrelevant and Unfairly Prejudicial (Doc. No. 37) and Defendants' response brief (Doc. No. 55), it is **ORDERED** that the motion is **DENIED**.

3. Upon consideration of Defendants' Motion *in Limine* to Exclude Reference to Pilot Weather Reports (PIREPS) (Doc. No. 33) and Plaintiff's response brief (Doc. No. 53), it is **ORDERED** that the motion is **DENIED AS MOOT**.

4. Upon consideration of Defendants' Motion *in Limine* to Exclude Reference to FAA Advisory Circular 120-88A (Doc. No. 34) and Plaintiff's response brief (Doc. No. 54), it is **ORDERED** that the motion is **DENIED**. The Court will, however, entertain a request for a limiting instruction as to the applicability of Circular 120-88A.

5. Upon consideration of Defendants’ Motion *in Limine* to Exclude Evidence of Subsequent Remedial Measures (Doc. No. 35), Plaintiff’s response brief (Doc. No. 52), and Defendants’ reply brief (Doc. No. 56), it is **ORDERED** that the motion is **GRANTED IN PART** and **DENIED IN PART**. The motion is **GRANTED** as to Barry Lintz’s January 23, 2017 email (Doc. No. 35-5 at pp. 4–5.) and the Biomet Safety Report (Doc. No. 35-4). These materials shall not be introduced at trial.<sup>1</sup> The motion is **DENIED** as to Lintz’s January 21, 2017 email and attachment (Doc. No. 35-5 at pp. 2–3).

**IT IS SO ORDERED.**

*/s/Karen Spencer Marston*

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KAREN SPENCER MARSTON, J.

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<sup>1</sup> The Court withholds ruling on whether these materials may ultimately be introduced for impeachment purposes.